

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
 :
 v. : CRIMINAL NO.: 09-513
 :
 EMANUEL E. PATTERSON :

ORDER

AND NOW, this day of October, 2009, upon consideration of Defendant's Motion To Exclude Government Evidence For Being Produced in Violation of the Court's Prior Discovery Order, and the government's response thereto, it is hereby **ORDERED** that the Motion is **GRANTED**, and that the government is prohibited from introducing its late production of discovery as set forth in the Defendant's motion.

It is so **ORDERED**.

BY THE COURT:

THE HONORABLE R. BARCLAY SURRICK
United States District Court Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL NUMBER: 09-513
	:	
EMANUEL E. PATTERSON	:	

**DEFENDANT'S MOTION TO EXCLUDE GOVERNMENT EVIDENCE
FOR BEING PRODUCED IN VIOLATION OF THIS COURT'S
PRIOR DISCOVERY ORDER**

EMANUEL E. PATTERSON, by and through his court appointed attorney, Mark Jay Krum, Esquire, files this motion to exclude government evidence for being produced in violation of this Court's prior discovery Order. As grounds, it is stated:

1. Emanuel E. Patterson is charged in a three-count Indictment with conspiracy to commit armed bank robbery in violation of 18 U.S.C. § 371; armed bank robbery in violation of 18 U.S.C. § 2113(d); and carrying a firearm during and in relation to a crime of violence in violation of 18 U.S.C. § 924(c)(1).

2. The government alleges that on or about December 19, 2008, Mr. Patterson participated in an armed bank robbery of the Sovereign Bank, located at 125 South Providence Road in Media, Pennsylvania. The government also alleges that Mr. Patterson conspired with Rahsaan Lahvon Ford and Norman Michael Hawkins, Jr. to rob the bank at gunpoint.

3. On July 31, 2009, counsel for Mr. Patterson wrote the government and requested that the Government shall disclose "[A] written summary of testimony the Government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial. This summary must describe the witnesses' opinions, the bases and the reasons therefore and the witnesses' qualifications as set forth in Rule 16(a)(1)(G)."

4. On September 2, 2009, this Court issued an Order (Doc. No. 16) requiring the Government to complete its discovery obligations "on or by Friday, September 11, 2009."

5. By correspondence dated October 13, 2009, the Government sent defense counsel an expert "firearm report prepared by Police Officer Shane Gaghan." The report is dated October 9, 2009. On Thursday evening October 15, 2009, the Government sent defense counsel its witness list and Trial Memorandum identifying proposed "firearms expert" Shane Gaghan as a witness in its case-in-chief, and stating that Officer Gaghan "will testify [at trial] that the Talon Industries pistol is 'designed to or may readily be converted to expel a projectile by the action of an explosive.'"

WHEREFORE, for the reasons set forth in this Motion to Exclude Government Evidence for being Produced in Violation of this Court's Prior Discovery Order, Emanuel E. Patterson respectfully requests that the Court grant the instant Motion and to exclude the Government's late production of evidence as set forth in this motion.

Respectfully submitted,



MARK JAY KRUM, ESQ.
100 S. Broad Street, Suite 1910
Philadelphia, PA 19103
Tel. (215) 605-8200

CERTIFICATE OF SERVICE

I, Mark Jay Krum, Esq., hereby certify that I have served a copy of Defendant's Motion to Exclude Government Evidence for being Produced in Violation of this Court's Prior Discovery Order, and proposed Order, electronically through Eastern District Clerk's Office Electronic Case Filing ("ECF") system and/or by hand delivery upon Anthony G. Kyriakakis, Assistant United States Attorney, to his office located at Suite 1250, 615 Chestnut Street, Philadelphia, Pennsylvania, 19106.


Mark Jay Krum, Esquire

DATE: October 16, 2009